

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

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LOUIE GARCIA,

Petitioner,

V.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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No. 18-438V

Special Master Christian J. Moran

Filed: May 19, 2022

Stipulation; Hepatitis B vaccine; shoulder injury related to vaccine administration (“SIRVA”).

Leah V. Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for
Petitioner;

Parisa Tabassian, United States Dep't of Justice, Washington, DC, for Respondent.

UNPUBLISHED DECISION¹

On May 19, 2022, the parties filed a joint stipulation concerning the petition for compensation filed by Louie Garcia on March 23, 2018. Petitioner alleged that the Hepatitis B vaccine he received on June 13, 2017, which is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. §100.3(a), caused him to suffer a shoulder injury related to vaccine administration (“SIRVA”). Petitioner further alleges that he suffered the residual effects of this injury for more than six months. Petitioner represents that there has been no prior award or settlement of a civil action for damages on his behalf as a result of his condition.

¹ The E-Government Act, 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

Respondent denies that the vaccine either caused petitioner's alleged injuries and denies that the vaccine caused any other injury or petitioner's current disabilities.

Nevertheless, the parties agree to the joint stipulation, attached hereto. The undersigned finds said stipulation reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

Damages awarded in that stipulation include:

- a. A lump sum payment of \$67,500.00 in the form of a check payable to petitioner; and**
- b. A lump sum payment of \$1,190.92, representing reimbursement of a Medicaid lien for services rendered to petitioner by the State of California, in the form of a check payable jointly to petitioner and the California Health and Human Services Agency, Department of Health Care Services / Third Party Liability and Recovery Division:**

**Department of Health Care Services
Recovery Branch – MS 4720
PO Box 997421
Sacramento, CA 95899
[in memo line] Case # C96382831A-VAC03**

Petitioner agrees to endorse this check to the Department of Health Care Services.

These amounts represent compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment according to this decision and the attached stipulation.²

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

LOUIE GARCIA)	
)	
Petitioner,)	No. 18-438V
)	Special Master Moran
v.)	
)	
SECRETARY OF HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

STIPULATION

The parties hereby stipulate to the following matters:

1. Petitioner, Louie Garcia, filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 to 34 (the “Vaccine Program”). The petition seeks compensation for injuries allegedly related to petitioner’s receipt of the Hepatitis B (“Hep B”) vaccine, which vaccine is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3 (a).
2. Petitioner received the vaccine on June 13, 2017.
3. The vaccine was administered within the United States.
4. The petition alleges that petitioner developed a shoulder injury related to vaccine administration (“SIRVA”), as a result of the Hep B vaccine. Petitioner further alleges that he experienced the residual effects of this injury for more than six months.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages arising out of the alleged vaccine injury.
6. Respondent denies that the Hep B vaccine caused petitioner’s alleged injuries and

denies that the Hep B vaccine caused any other injury or petitioner's current disabilities.

7. Maintaining their above-stated positions, the parties nevertheless now agree that the issues between them shall be settled and that a decision should be entered awarding the compensation described in paragraph 8 of this Stipulation.

8. As soon as practicable after an entry of judgment reflecting a decision consistent with the terms of this Stipulation, and after petitioner has filed an election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), the Secretary of Health and Human Services will issue the following vaccine compensation payments:

- A. A lump sum of \$67,500.00 in the form of a check payable to petitioner; and
- B. A lump sum of \$1,190.92¹, representing reimbursement of a Medicaid lien for services rendered to petitioner by the State of California, in the form of a check payable jointly to petitioner and the California Health and Human Services Agency, Department of Health Care Services / Third Party Liability and Recovery Division:

Department of Health Care Services
Recovery Branch – MS 4720
PO Box 997421
Sacramento, CA 95899
[in memo line] Case # C96382831A-VAC03

Petitioner agrees to endorse this check to the Department of Health Care Services.

These amounts represent compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

9. As soon as practicable after the entry of judgment on entitlement in this case, and

¹ This amount represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of California may have against any individual as a result of any Medicaid payments the California Department of Health Care Services has made to or on behalf of Louie Garcia as a result of his alleged vaccine-related injury suffered on or about June 13, 2017, under Title XIX of the Social Security Act, see 42 U.S.C. § 300aa-15(g), (h).

after petitioner has filed both a proper and timely election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), and an application, the parties will submit to further proceedings before the special master to award reasonable attorneys' fees and costs incurred in any proceeding upon this petition.

10. Petitioner and petitioner's attorney represent that compensation to be provided pursuant to this Stipulation is not for any items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), to the extent that payment has been made or can reasonably be expected to be made under any State compensation programs, insurance policies, Federal or State health benefits programs (other than Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.)), or by entities that provide health services on a pre-paid basis, and represent that they have identified to respondent all known sources of payment for items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g).

11. Payments made pursuant to paragraph 8 and any amounts awarded pursuant to paragraph 9 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

12. The parties and their attorneys further agree and stipulate that, except for any award for attorneys' fees and litigation costs, and past unreimbursable expenses, the money provided pursuant to this Stipulation will be used solely for the benefit of petitioner as contemplated by a strict construction of 42 U.S.C. § 300aa-15(a) and (d), and subject to the conditions of 42 U.S.C. § 300aa-15(g) and (h).

13. In return for the payments described in paragraphs 8 and 9, petitioner, in petitioner's individual capacity, and on behalf of petitioner's heirs, executors, administrators, successors or assigns, does forever irrevocably and unconditionally release, acquit and

discharge the United States and the Secretary of Health and Human Services from any and all actions or causes of action (including agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature) that have been brought, could have been brought, or could be timely brought in the United States Court of Federal Claims, under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq., on account of, or in any way growing out of, any and all known or unknown, suspected or unsuspected personal injuries to or death of petitioner resulting from, or alleged to have resulted from, the vaccination as alleged by petitioner in a petition for vaccine compensation filed on or about March 26, 2018 in the United States Court of Federal Claims as petition No. 18-438V.

14. If petitioner should die prior to entry of judgment, this agreement shall be voidable upon proper notice to the Court on behalf of either or both of the parties.

15. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the United States Court of Federal Claims fails to enter judgment in conformity with a decision that is in complete conformity with the terms of this Stipulation, then the parties' settlement and this Stipulation shall be voidable at the sole discretion of either party.

16. This Stipulation expresses a full and complete negotiated settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended, except as otherwise noted in paragraph 9 above. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to. The parties further agree and understand that the award described in this Stipulation may reflect a compromise of the parties' respective positions as to

liability and/or amount of damages, and further, that a change in the nature of the injury or condition or in the items of compensation sought, is not grounds to modify or revise this agreement.

17. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the vaccine caused petitioner's alleged injury or any other injury or petitioner's current condition.

18. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns.

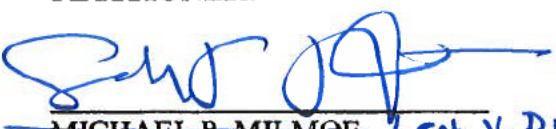
END OF STIPULATION

Respectfully submitted,

PETITIONER:


LOUIE GARCIA

**ATTORNEY OF RECORD FOR
PETITIONER:**



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**AUTHORIZED REPRESENTATIVE
OF THE SECRETARY OF HEALTH
AND HUMAN SERVICES:**


George R. Grimes -S14 Digitally signed by George R.
Grimes -S14
Date: 2022.04.20 12:36:36 -04'00'

CDR GEORGE REED GRIMES, MD, MPH
Director, Division of Injury
Compensation Programs
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Dated: 5/19/2022